



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004421

[REDACTED]

Dear [REDACTED],

On November 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 26, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004421

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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible to receive up to \$257.00 per month in advance premium tax credit, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

## Procedural History

On June 17, 2015, your application for health insurance was modified based on income documentation you submitted to the Marketplace. This application was run on June 25, 2015.

On June 26, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible to receive an advance premium tax credit of up to \$257.00 per month and, if you selected a silver level plan, for cost-sharing reductions. It further stated that you were not eligible for Medicaid because your income of \$22,727.00 was over the allowable income limit. This eligibility was effective August 1, 2015.

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On August 21, 2015, you contacted the Marketplace's Account Review Unit and appealed that determination as it related to your eligibility for financial assistance.

On November 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence, including copies of your paystubs for the months of February and June 2015.

On December 3, 2015, the Marketplace's Appeals Unit did not receive your supporting evidence, and the record was closed.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) The application that was submitted on June 17, 2015 listed an annual household income of \$22,727.00, consisting solely of your earned income. You testified that this amount is an accurate reflection of your expected income based on your paystubs.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return.
- 4) Your application states that you live in Westchester County.
- 5) The record reflects that you had previously been enrolled in Medicaid coverage from April 1, 2014 through March 31, 2015.
- 6) You testified that you experienced numerous difficulties during the application process because you were getting conflicting information from Marketplace representatives about what income documentation was required to complete your application.
- 7) You testified that you spoke to a Marketplace representative in June 2015 who gave you misinformation regarding your Medicaid eligibility. According to the phone call recorded on June 23, 2015, a Marketplace representative informed you that you would be enrolled in Fidelis Care, effective August 1, 2015, and confirmed that you had Medicaid coverage. He further informed you that you did not have to pay anything for your health plan.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable poverty level (FPL) (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

### Cost-Sharing Reductions

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Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

### Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$257.00 per month.

The application that was submitted on June 17, 2015 listed an annual household income of \$22,727.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file you 2015 income taxes as single and will claim no dependents on that tax return.

You reside in Westchester County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$22,727.00 is 194.75% of the 2014 federal poverty level (FPL) for a one-person household. At 194.75% of the FPL, the expected contribution to the cost of the health insurance premium is 6.10% of income, or \$115.45 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$115.53 per month), which equals \$256.87 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$257.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$22,727.00 is 194.75% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you were ineligible for Medicaid.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$22,727.00 is 193.09% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month.

The Hearing Officer directed you to submit proof of your monthly income within 15 days of the hearing. No documentation was received via upload or fax within the allotted time frame. Therefore, the Appeals Unit cannot evaluate your eligibility for Medicaid on a monthly basis at this time.

Since the June 26, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$257.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

At the hearing you testified that you received misinformation from a Marketplace representative regarding your eligibility for Medicaid. According to the telephone conversation recorded on June 23, 2015, a Marketplace representative informed you that you had Medicaid coverage and would be enrolled in Fidelis Care,

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effective August 1, 2015. However, there is no evidence in the record that you were eligible for Medicaid at that time. Furthermore, the record reflects that your Medicaid eligibility ended on March 31, 2015.

Although it is noted that the information provided to you in the June 23, 2015 recording was incorrect, such misstatements are not relevant to the issue under appeal and are not relied upon by the Marketplace's Appeals Unit.

## **Decision**

The June 26, 2015 eligibility determination notice is **AFFIRMED**.

**Effective Date of this Decision:** January 08, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for up to \$257.00 in APTC for the remainder of the 2015 eligibility year.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The June 26, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$257.00 in APTC for the remainder of the 2015 eligibility year.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

